

DENNIS J. HERRERA, State Bar #139669
City Attorney
JOANNE HOEPER, State Bar #114961
Chief Trial Deputy
SCOTT D. WIENER, State Bar #189266
Deputy City Attorney
Fox Plaza
1390 Market Street, 6th Floor
San Francisco, California 94102-5408
Telephone: (415) 554-4283
Facsimile: (415) 554-3837

Attorneys for Defendants

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ALEXIS BAUTISTA, an individual,

Plaintiff,

vs.

CITY AND COUNTY OF SAN
FRANCISCO, SAN FRANCISCO
POLICE DEPARTMENT, SAN
FRANCISCO POLICE OFFICER
WILLIAMS, SAN FRANCISCO POLICE
SERGEANT ESPINOZA, SAN
FRANCISCO POLICE OFFICER LUM,
DOES 1 to 20, Inclusive,

Defendants.

Case No. C07-5434 CW

**MOTION TO COMPEL PLAINTIFF
TO PROVIDE INITIAL
DISCLOSURES AND TO RESPOND
TO INTERROGATORIES AND
REQUESTS FOR PRODUCTION**

REQUEST FOR SANCTIONS

Hearing Date: June 12, 2008
Time: 2:00 p.m.
Dept.: Courtroom 2, 4th Floor
Hon. Claudia Wilken

NOTICE OF MOTION AND MOTION

TO PLAINTIFF AND HER COUNSEL OF RECORD: NOTICE IS HEREBY GIVEN that on June 12, 2008, at 2 p.m., in the United States District Court for the Northern District of California, 1301 Clay Street, Oakland, California, Courtroom 2, 4th Floor, Defendants will, and hereby do, move to compel Plaintiff Alexis Bautista to provide initial disclosures as required by Fed. R. Civ. P. 26, to respond to interrogatories as required by Fed. R. Civ. P. 33, and to respond to requests for production as requested by Fed. R. Civ. P. 34. Each of these items is long past due.

Defendants base their motion on this notice of motion and motion, the memorandum of points and authorities in support thereof, the declaration of Scott Wiener, the complete case file, and such other evidence as may be brought to the Court's attention before or at the hearing on this motion.

MEMORANDUM OF POINTS AND AUTHORITIES

Plaintiff has not provided initial disclosures, which were due on February 26, 2008. In addition, Defendant City and County of San Francisco propounded document requests and interrogatories on Plaintiff, with service by mail, on January 18, 2008, meaning that responses were due on February 22, 2008. Defendants have not provided an extension to respond, yet Plaintiff has not provided responses. *See* Declaration of Scott Wiener, dated April 15, 2008.

To date, Plaintiff has not provided any of these discovery materials, despite repeated requests by Defendants that she do so. *See* Wiener Decl. The Court should order Plaintiff to provide initial disclosures and the overdue discovery responses. Moreover, the responses should be without objection, given that any objections have been waived. *See* Fed. R. Civ. P. 26, 33, 34.

1 Finally, the Court should sanction Plaintiff in the amount of \$400, comprising the one hour
2 that it took defense counsel to prepare this filing and the one hour anticipated for argument on the
3 motion. *See* Wiener Decl.
4

5 Dated: April 15, 2008

6 DENNIS J. HERRERA
7 City Attorney
8 JOANNE HOEPER
9 Chief Trial Deputy
10 SCOTT D. WIENER
11 Deputy City Attorney

-/s/- Scott D. Wiener

12 By: _____
13 SCOTT D. WIENER
14 Attorneys for Defendants
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Declaration of Scott Wiener

I, Scott Wiener, declare as follows:

1. I am a Deputy City Attorney in the Office of the City Attorney, counsel of record to Defendants in the above action. I have personal knowledge of the contents of this declaration, except where indicated otherwise, and I could and would testify competently thereto if called upon to do so.

2. Initial disclosures in this case were due on February 26, 2008, one week before the initial case management conference, which was held on March 4, 2008. To date, Plaintiff has not produced initial disclosures despite repeated requests by me to Plaintiff's counsel, Norman Newhouse, to provide those disclosures and despite repeated statements by Mr. Newhouse that he would provide the material.

3. On January 18, 2008, after counsel conducted the required Rule 26 conference, my office served by mail requests for production and interrogatories. Attached hereto as Exhibits A and B are true and correct copies of those documents, with proofs of service. Defendants have not granted Plaintiff any extensions to respond. To date, Defendants have not received responses to the requests for productions and interrogatories.

4. My hourly rate is \$200. I spent one hour preparing and overseeing this filing. I anticipate spending in excess of one hour attending the hearing on this motion, including travel time. Defendants therefore request sanctions in the amount of \$400.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this declaration was executed on April 15, 2008, at San Francisco, California.

-s/- Scott D. Wiener

Scott Wiener